

REMARKS

In response to the requirement to restrict between Examiner's Groups I (claims 33-58 and 59-63) and Group II (claim 64), Applicants elect Group I drawn to method for prophylaxis of influenza infection and a kit for use in the claimed method.

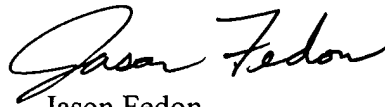
The Examiner requires the Applicants to elect between one of three subgroups wherein the influenza antigen is A) a split virus antigen, B) a subunit antigen and C) an inactivated whole virus. The Examiner also requires the Applicants to elect between one of four subgroups wherein the vaccine surfactant is 1) an octylphenoxypolyethoxyethanol, 2) a polyethylene sorbitan ester, 3) a polyoxyethylene ether and 4) an ester of Formula I. Applicants elect Examiner's Groups A (a split virus antigen) and 1 (an octylphenoxypolyethoxyethanol) with traverse.

Applicants respectfully assert that the elected claims are drawn to a method for prophylaxis against influenza virus infection using a non-live influenza virus antigen preparation in any form, whether it be a split virus, a subunit, or an inactivated whole virus. Although the Examiner asserts that each of these types of antigen preparations represent a different structure, and that influenza viruses, in general, are known in the art, Applicants assert that the advance over the art provided by the instant invention is not predicated on the form of the non-live influenza virus antigen preparation. Moreover, as stated in dependent Claim 38, the instant invention can be practiced using vaccine formulations comprising one or more surfactants. Similar to above, the advance over the art is not based upon inclusion of a particular surfactant. Instead, Applicants have succeeded in providing an influenza virus vaccine that induces an immune response meeting regulatory requirement after only a single dose, and this vaccine may contain any form of non-live influenza virus antigen and any surfactant. This then represents the special technical feature of the instant invention, and the claims therefore meet the unity of invention requirements.

Regarding the Examiner's requirement to elect a particular species of surfactant, Applicants elect t- octylphenoxypolyethoxyethanol (Triton X-100). All of the pending claims read on this elected species. Applicant acknowledge that upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species as provided for under 37 C.F.R. § 1.141. Applicants also acknowledge that Claims 33 and 38 are considered to be

linking claims for subgroups A-C and 1-4, respectively, and that if the elected invention is found to be patentable, the linking claim will also be examined.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jason Fedon". The signature is fluid and cursive, with the first name "Jason" and last name "Fedon" clearly distinguishable.

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